

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for CPT Code 97799-CP.
- b. The request was received on April 16, 2002.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC 60 and Letter Requesting Dispute Resolution
 - b. HCFA's
 - c. EOB
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC 60 and/or Response to a Request for Dispute Resolution
 - b. HCFA's
 - c. Audit summaries/EOB
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on June 26, 2002. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on July 2, 2002. The response from the insurance carrier was received in the Division on July 16, 2002. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: The requestor's representative, ____, states in the correspondence dated June 7, 2002 that... "Please note that I have attached medical documentation to help support/expedite payment consideration. See also attached a copy of the request dated 05/28/02, we have 14 days to send to your office the 14-day would be 06/13/02..."

Requestor: The requestor's representative, ____, states in correspondence dated April 16, 2002 that... "...We are aware that the services (97799-CP) rendered to Ms. ____ has no MAR set by TWCC, but do reimburse by DOP/ WE feel that payment of less than 45% from the insurance carrier is not fair & reasonable as they stated on the EOB regarding the explanation of their reduction. We ask that ____ be reimbursed at a fair & reasonable rate for services that were provided..."

2. Respondent: The respondent representative, ____, states in the correspondence dated July 16, 2002 that... "...The Medical Fee Guidelines require the provider to bill its usual and customary fee. However, the guidelines do not anticipate that the provider will be paid its usual and customary fee, unless it is less than the maximum allowable reimbursement under the guideline. There is currently no fee guideline for CPMP. Therefore, under Rule 134.401(a)(3), these bills are to be reimbursed at a fair and reasonable rate. This rate is not the same as the provider's usual and customary charge. 'Fair and reasonable' is not defined by TWCC except in the context of durable medical equipment... Carrier has determined that \$92.00 per hour represents fair and reasonable reimbursement for this service. The provider must therefore prove that the reimbursement received is not fair and reasonable. The provider has not submitted documentation that the reimbursement received does not cover its costs and allow for a reasonable profit. The provider has submitted no documentation to support its position that the reimbursement received is not appropriate... Because the provider has failed to prove that the reimbursement received is not fair and reasonable, the provider is not entitled to further reimbursement..."

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are those commencing on April 16, 2001 and extending through April 27, 2001. Dates of service March 19, 2001 and extending through April 11, 2001 are outside the 365-day filing deadline and Medical Dispute Resolution has no jurisdiction over these dates.
2. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code(s)	MARS (Maximum Allowable Reimbursement)	REFERENCE	RATIONALE:
04/16/01 04/17/01 04/18/01 04/19/01 04/23/01 04/24/01 04/25/01 04/26/01 04/27/01	97799-CP (6) 97799-CP (6) 97799-CP (6) 97799-CP (6) 97799-CP (6) 97799-CP (6) 97799-CP (6) 97799-CP (6) 97799-CP (6)	\$1,251.00 \$1,251.00 \$1,251.00 \$1,251.00 \$1,251.00 \$1,251.00 \$1,251.00 \$1,251.00 \$1,251.00	\$552.00 \$552.00 \$552.00 \$552.00 \$552.00 \$552.00 \$552.00 \$552.00 \$552.00	F F F F F F F F F	DOP - \$699.00 DOP - \$699.00 DOP - \$699.00 DOP - \$699.00 DOP - \$699.00 DOP - \$699.00 DOP - \$699.00 DOP - \$699.00 DOP - \$699.00 Amount in this column reflects what the provider has listed as the amount in dispute)	MFG, MGR (II)(D)(G) CPT descriptor	Requestor has submitted daily treatment notes to support the services rendered; however, requestor did not submit EOB's from other insurance carriers supporting payment at \$208.50 per hour is a fair and reasonable reimbursement; therefore, reimbursement is not recommended.
Totals		\$11,256.00	\$4,968.00				The Requestor is not entitled to reimbursement.

The above Findings and Decision are hereby issued this 2nd day of January 2003.

Marguerite Foster
Medical Dispute Resolution Officer
Medical Review Division

MF/mf